

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 338, As Amended in the Senate

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO FUELS; AMENDING SECTION 63-2407, IDAHO CODE, TO DELETE CERTAIN DEDUCTIONS; AMENDING SECTION 63-2412, IDAHO CODE, TO REVISE DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-2418, IDAHO CODE, TO REVISE DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS; AMENDING SECTION 40-701, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 41-4910, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; TO PROVIDE LEGISLATIVE INTENT; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2407, Idaho Code, be, and the same is hereby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Motor fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document, an invoice signed by the purchaser, or other proper documents approved by the commission but only if:

(a) The purchaser is not a licensed distributor and the seller can establish that any tax due in the jurisdiction to which the motor fuel is destined is paid; or

(b) The purchaser is a licensed distributor in the jurisdiction to which the motor fuel is destined.

(2) Motor fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Motor fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to two percent (2%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section.

(5) Motor fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is supported by an exemption certificate signed by an authorized officer of the Idaho national guard.

~~(6) In the case of motor fuel that is:~~

~~(a) Gasohol, deduct the number of gallons of denatured anhydrous ethanol contained in gasohol imported or blended during the reporting period and that would be taxable in the report but for the deduction allowed by this subsection.~~

~~(b) Biodiesel, deduct the number of gallons that are sold during the month to which the report relates to any person other than a licensed distributor.~~

~~(c) A biodiesel blend, deduct the number of gallons of biodiesel contained in the biodiesel blend imported, blended or received from a licensed distributor who is a biodiesel producer during the month to which the report relates. In the case of a licensed distributor who is a biodiesel producer, the deduction is only available when the producer sells its biodiesel blends to a person who is not a motor fuel distributor licensed in this state.~~

~~(d) The deduction provided in this subsection shall not exceed ten percent (10%) of (i) the volume of gasohol reported on the report or (ii) the special fuel which is or contains biodiesel.~~

~~(e) The deduction allowed by paragraphs (b) and (c) of this subsection is only available for motor fuel otherwise subject to tax under this chapter.~~

SECTION 2. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2421, Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) An amount of money equal to seven percent (7%) shall be distributed to the state highway account established in section 40-702, Idaho Code.

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (d) of subsection (1) of this section:

1. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty percent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code;

2. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty percent (20%) of the moneys distributed to the off-road motor vehicle account by this subparagraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code; and

3. Forty-four hundredths percent (.44%) shall be distributed to the park and recreation capital improvement account as created in section 57-1801, Idaho Code, to be used solely to develop, construct, maintain and repair roads, bridges and parking areas within and leading to parks and recreation areas of the state.

4. The balance remaining shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 3. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The revenues received from the tax imposed by this chapter upon the receipt of special fuel and any penalties, interest, or deficiency additions, or from the fees imposed by

the commission under the provisions of section 63-2424 or 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid under this chapter shall be paid from the state refund account, those moneys being hereby continuously appropriated.

(3) An amount of money equal to seven percent (7%) shall be distributed to the state highway account as established in section 40-702, Idaho Code.

(4) The balance remaining with the commission after distributing the amounts specified in subsections (1) and (2) of this section shall be distributed to the highway distribution account, established in section 40-701, Idaho Code.

SECTION 4. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT – APPORTIONMENT. (1) There is established in the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(e) ~~4~~ and 63-2418(3) ~~4~~, Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) The highway distribution account shall be apportioned as follows:

(a) Thirty-eight percent (38%) to local units of government as provided in section 40-709, Idaho Code;

(b) Fifty-seven percent (57%) to the state highway account established in section 40-702, Idaho Code; and

(c) Five percent (5%) to the law enforcement account, established in section 67-2914, Idaho Code. The state controller shall cause the remittance of the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 5. That Section 41-4910, Idaho Code, be, and the same is hereby amended to read as follows:

41-4910. DISTRIBUTION OF APPLICATION FEES AND TRANSFER FEES. (1) The application fees and the transfer fees collected as provided in this chapter shall be promptly remitted to the state treasurer for deposit in the Idaho petroleum clean water trust fund. The transfer fees and accumulated interest which accrued to the fund prior to August 3, 1995, shall remain in the fund. The transfer fees and accumulated interest, which have been held in a separate suspense account since August 3, 1995, shall be distributed as provided in subsection (4) of this section. The transfer fees and accumulated interest which accrue to the Idaho petroleum clean water trust fund subsequent to April 1, 1997, shall be distributed monthly thereafter as provided in subsection (5) of this section.

(2) An amount of money equal to the actual cost of collecting, administering and enforcing the transfer fee by the commission, as determined by it, shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collection, administering and enforcing the transfer fee requirements by the commission at the end of each fiscal year shall be remitted to the state treasurer for deposit into the Idaho petroleum clean water trust fund.

(3) From the receipts of the transfer fee, an amount of money shall be distributed to the state refund account established under section 63-3067, Idaho Code, sufficient to reimburse that account for all current refund claims under this chapter paid from that account. Any refunds due and owing from the commission under this chapter shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(4) For the distribution on April 1, 1997, the balance of the transfer fees and accumulated interest accruing to the separate suspense account established for such fees on August 3, 1995, which remain after distributing the amounts specified in subsections (2) and (3) of this section, shall be distributed as follows:

(a) Twenty percent (20%) to the Idaho petroleum clean water trust fund established in section 41-4905, Idaho Code;

(b) Three percent (3%) to the Idaho department of parks and recreation in accordance with subparagraphs 1., 2., and 3. of paragraph (e), subsection (1) of section 63-2412, Idaho Code; and

(c) The remainder shall be distributed:

(i) Six million dollars (\$6,000,000) to the state highway account for administration by the Idaho transportation department as provided in section 41-4910A, Idaho Code; and

(ii) The balance remaining to the highway distribution account established in section 40-701, Idaho Code.

(5) For the distribution at the end of fiscal year 1997 and monthly thereafter, the balance of the transfer fees and accumulated interest accruing to the Idaho petroleum clean water trust fund which remain after distributing the amounts specified in subsections (2) and (3) of this section, shall be distributed as follows:

(a) Seventy-seven percent (77%) to the highway distribution account established in section 40-701, Idaho Code; and

1 (b) Three percent (3%) to the Idaho department of parks and recreation in accordance  
2 with subparagraphs 1., 2., and 3. of paragraph ~~(e)~~, subsection (1) of section 63-2412,  
3 Idaho Code.

4 SECTION 6. It is legislative intent, in light of changing consumption patterns relating to  
5 motor vehicle fuels, including gasohol, biodiesel and biodiesel blends, to review on an annual  
6 basis the distributions to the State Highway Account provided for in Sections 63-2412(1)(e) and  
7 63-2418(3), Idaho Code.

8 SECTION 7. An emergency existing therefor, which emergency is hereby declared to  
9 exist, Section 1 of this act shall be in full force and effect on and after June 1, 2009. Sections  
10 2, 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 2009.